In claim 1, Applicant recites that the label product contains an antibody capable of binding to a target substance in a test sample and further states that the target substance is selected from the group consisting of dioxins and PCBs. Immediately following this portion of the claim, Applicant recites an unbound label product capture section, which captures label product that is not bound to the target substance. This can only mean a unique capture section that captures the label product recited immediately above which means that it must capture a label product containing an antibody capable of binding to a target substance in the test sample where the target substance is selected from the group of dioxins or PCBs. The definition of a label product restricts and defines the unbound label product capture section. Only a unique label product capture section can capture the label product that is not bound to the target. Applicant's claim 5 further modifies the label product. This means that claim 5 also modifies the unbound label product capture section that is in claim 1.

In the rejection of claim 5, the Examiner argues that labeled reagents are not part of the device. This is true, but the device claimed has an unbound label product capture section which captures the label product which is not bound to the target. By this limitation, Applicant claims a capture section which can only capture the label product defined above.

II. Claim Rejection Under 35 U.S.C. § 102

In the rejection of the claims under 35 U.S.C. §102, the Examiner gave no patentable weight, "since the reagents of the device are not specifically limited to these analytes." This failure to give patentable weight is respectfully traversed for the reasons that follow.

Patentable weight must be given to the definition of the label product found in claim 1 for the reason that the unbound label product capture section is necessarily limited to a capturing of the unique label product which is an antibody capable of binding to a target substance in a test sample and where the target substance is selected from the group consisting of dioxins and PCBs. Since the unbound label product capture section is limited

by the label product recited immediately above, this section as defined in the claim has not been anticipated by U.S. Patent No. 4,623,461 (Hossom). Hossom has no teaching of an unbound label product capture section, which can capture a label product containing an antibody capable of binding to a target substance where the target substance consists of dioxins and PCBs.

III. Claim Rejection Under 35 U.S.C. §103

Claims 1, 4-8, 20 and 21 have been rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 5,141,850 (Cole) in view of U.S. Patent No. 5,451,504 (Fitzpatrick). This rejection is respectfully traversed for the reasons stated above with respect to the rejection under 35 U.S.C. §112 and also the rejection under 35 U.S.C. §102. This rejection does not consider the fact that the unbound label product capture section must capture the unique label product that contains an antibody capable of binding to a target substance selected from the group consisting of dioxins and PCBs.

IV. Claims 17–19

Claims 17–19 (claims 9–16 were canceled) have been rejected under 35 U.S.C. §103 as being unpatentable over Cole in view of Fitzpatrick as applied to claim 1 further in view of U.S. Patent No. 5,789,154 (Durst). This rejection is respectfully traversed.

Initially, Applicant refers to the discussion of Cole and Fitzpatrick where Applicant has shown that the label product definition modifies the unbound label product capture section and, therefore, must be included in the claim.

In the rejection of claims 17–19, the Examiner further relies upon Durst to provide a teaching that analytes, such as dioxin and PCBs, are easily measurable using conventional techniques. The Examiner cites claim 13. Claim 13 is the only place PCB's are mentioned and dioxin is identified at col. 21, line 45. In the '154 specification, the analysis system is completely different from that claimed by Applicant because this system does not involve an

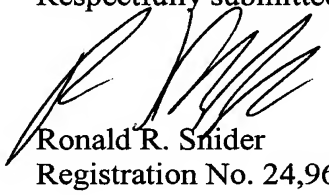
unbound label product capture section. The teaching with respect to claim 13 shows only that PCBs and dioxins may be analytes. This teaching does not suggest that PCBs and dioxins can be detected with antibodies at all. Claim 12 refers to the binding material being an antibody, but claim 12 cannot be connected to claim 13 to show that an antibody is bound to the PCBs and dioxins. Still further, even if such a binding is to occur, it does not occur in the context of claim 1. Claim 12 says that the antibody is for an antigen or a hapten. This is not a PCB or dioxin as recited in claim 1.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 4-8 and 17-21 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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